

Employment and Training Administration, Labor

§ 655.41

Upon acceptance of an amendment, the CO will submit to the SWA any necessary changes to the job order and update the electronic job registry.

(d) *Amendments after certification are not permitted.* The employer must promptly provide copies of any approved amendments to all U.S. workers hired under the original job order.

§§ 655.36–655.39 [Reserved]

POST-ACCEPTANCE REQUIREMENTS

§ 655.40 Employer-conducted recruitment.

(a) *Employer obligations.* Employers must conduct recruitment of U.S. workers to ensure that there are not qualified U.S. workers who will be available for the positions listed in the *Application for Temporary Employment Certification*. U.S. Applicants can be rejected only for lawful job-related reasons.

(b) *Employer-conducted recruitment period.* Unless otherwise instructed by the CO, the employer must conduct the recruitment described in §§ 655.42 through 655.46 within 14 calendar days from the date the Notice of Acceptance is issued. All employer-conducted recruitment must be completed before the employer submits the recruitment report as required in § 655.48.

(c) *U.S. workers.* Employers must continue to accept referrals and applications of all U.S. applicants interested in the position until 21 days before the date of need.

(d) *Interviewing U.S. workers.* Employers that wish to require interviews must conduct those interviews by phone or provide a procedure for the interviews to be conducted in the location where the worker is being recruited so that the worker incurs little or no cost. Employers cannot provide potential H-2B workers with more favorable treatment with respect to the requirement for, and conduct of, interviews.

(e) *Qualified and available U.S. workers.* The employer must consider all U.S. applicants for the job opportunity. The employer must accept and hire any applicants who are qualified and who will be available.

(f) *Recruitment report.* The employer must prepare a recruitment report meeting the requirements of § 655.48.

§ 655.41 Advertising requirements.

(a) All recruitment conducted under §§ 655.42 through 655.46 must contain terms and conditions of employment that are not less favorable than those offered to the H-2B workers and, at a minimum, must comply with the assurances applicable to job orders as set forth in § 655.18(a).

(b) All advertising must contain the following information:

(1) The employer's name and contact information;

(2) The geographic area of intended employment with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the services or labor;

(3) A description of the job opportunity for which certification is sought with sufficient information to apprise U.S. workers of the services or labor to be performed, including the duties, the minimum education and experience requirements, the work hours and days, and the anticipated start and end dates of the job opportunity;

(4) A statement that the job opportunity is a temporary, full-time position including the total number of job openings the employer intends to fill;

(5) If applicable, a statement that overtime will be available to the worker and the wage offer(s) for working any overtime hours;

(6) If applicable, a statement indicating that on-the-job training will be provided to the worker;

(7) The wage that the employer is offering, intends to offer or will provide to the H-2B workers or, in the event that there are multiple wage offers, the range of applicable wage offers, each of which must equal or exceed the highest of the prevailing wage or the Federal, State, or local minimum wage;

(8) If applicable, any board, lodging, or other facilities the employer will offer to workers or intends to assist workers in securing;

(9) All deductions not required by law that the employer will make from the worker's paycheck, including, if applicable, reasonable deduction for board,

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lodging, and other facilities offered to the workers;

(10) A statement that transportation and subsistence from the place where the worker has come to work for the employer to the place of employment and return transportation and subsistence will be provided, as required by § 655.20(j)(1);

(11) If applicable, a statement that work tools, supplies, and equipment will be provided to the worker without charge;

(12) If applicable, a statement that daily transportation to and from the worksite will be provided by the employer;

(13) A statement summarizing the three-fourths guarantee as required by § 655.20(f); and

(14) A statement directing applicants to apply for the job opportunity at the nearest office of the SWA in the State in which the advertisement appeared, the SWA contact information, and, if applicable, the job order number.

§ 655.42 Newspaper advertisements.

(a) The employer must place an advertisement (which must be in a language other than English, where the CO determines appropriate) on 2 separate days, which may be consecutive, one of which must be a Sunday (except as provided in paragraph (b) of this section), in a newspaper of general circulation serving the area of intended employment and appropriate to the occupation and the workers likely to apply for the job opportunity.

(b) If the job opportunity is located in a rural area that does not have a newspaper with a Sunday edition, the CO may direct the employer, in place of a Sunday edition, to advertise in the regularly published daily edition with the widest circulation in the area of intended employment.

(c) The newspaper advertisements must satisfy the requirements in § 655.41.

(d) The employer must maintain copies of newspaper pages (with date of publication and full copy of the advertisement), or tear sheets of the pages of the publication in which the advertisements appeared, or other proof of publication furnished by the newspaper containing the text of the printed ad-

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vertisements and the dates of publication, consistent with the document retention requirements in § 655.56. If the advertisement was required to be placed in a language other than English, the employer must maintain a translation and retain it in accordance with § 655.56.

§ 655.43 Contact with former U.S. employees.

The employer must contact (by mail or other effective means) its former U.S. workers, including those who have been laid off within 120 calendar days before the date of need, employed by the employer in the occupation at the place of employment during the previous year (except those who were dismissed for cause or who abandoned the worksite), disclose the terms of the job order, and solicit their return to the job. The employer must maintain documentation sufficient to prove such contact in accordance with § 655.56.

§ 655.44 [Reserved]

§ 655.45 Contact with bargaining representative, posting and other contact requirements.

(a) If there is a bargaining representative for any of the employer's employees in the occupation and area of intended employment, the employer must provide written notice of the job opportunity, by providing a copy of the *Application for Temporary Employment Certification* and the job order, and maintain documentation that it was sent to the bargaining representative(s). An employer governed by this paragraph (a) must include information in its recruitment report that confirms that the bargaining representative(s) was contacted and notified of the position openings and whether the organization referred qualified U.S. worker(s), including the number of referrals, or was non-responsive to the employer's requests.

(b) If there is no bargaining representative, the employer must post the availability of the job opportunity in at least 2 conspicuous locations at the place(s) of anticipated employment or in some other manner that provides reasonable notification to all employees in the job classification and area in which the work will be performed by